

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

DECISION AND ORDER

v.

1:23-cr-00099-LJV-JJM

HOWARD HINKLE, JR.,

Defendant.

Before the court is defendant Howard Hinkle, Jr.'s motion for release from custody [98].¹ Having reviewed the motion, along with the government's response [101] and defendant's reply [103], for the following reasons the motion is denied.

BACKGROUND

October 24, 2023 Hinkle was charged in a four-count Complaint [1] with being a felon in possession of a firearm, maintaining a drug involved premise, possession of marijuana with intent to distribute, and possession of a firearm in furtherance of drug trafficking crimes. Following a detention hearing on October 26, 2023, Magistrate Judge Michael J. Roemer ordered him released on conditions. [6, 10].

However, District Judge John L. Sinatra, Jr. revoked his release following a further hearing on November 3, 2023 [12, 101], and that revocation was affirmed by the Second Circuit. [21] in case 23-mj-5219. On January 5, 2024 Hinkle was charged in a Second

¹ Bracketed references are to CM/ECF docket entries, and page references are to CM/ECF pagination.

Superseding Indictment which realleged the charges previously alleged in the Complaint and added charges of obstruction of justice, witness tampering conspiracy, and witness retaliation conspiracy. [24], Counts 1-3, 19-22.

Hinkle’s motion points to “a change in circumstances that warrants his release”. Bogulski Affirmation [98], ¶9. He first argues that the Second Superseding Indictment “lacks specificity with respect to the more serious charges”, which he “adamantly denies”. *Id.* Next, he “directs the Court’s attention to the fact that [he] is now classified as a trustee in the Chautauqua County jail”, arguing that “[t]he fact that the jail experts have deemed Mr. Hinkle to be trustworthy is a significant factor for this Court to consider when evaluating his detention”. *Id.*, ¶¶10, 13.

DISCUSSION

Under the Bail Reform Act . . . a court has discretion to reopen a bail hearing if information comes to light that is both new and material to the detention question.” United States v. Zhang, 55 F.4th 141, 147 (2d Cir. 2022); 18 U.S.C. §3142(f). “A court’s prior detention determination is a natural reference point against which to measure the materiality of new information for the purpose of reopening the hearing - that is, revisiting its earlier decision.” *Id.* at 148. If the new information would not change the court’s previous decision, it is not “material”. United States v. Havens, 487 F. Supp. 2d 335, 339 (W.D.N.Y. 2007).

“New and material information . . . consists of something other than a defendant’s own evaluation of his character or the strength of the case against him.” United States v. Quinones, 2016 WL 1694998, *1 (W.D.N.Y. 2016); United States v. Jerdine, 2009 WL 4906564,

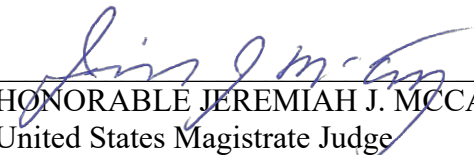
*3 (N.D. Ohio 2009). If anything, the addition of new and serious charges against Hinkle strengthens the reasons for detention outlined by Judge Sinatra. [101] at 66-70.

Nor am I persuaded by Hinkle's classification as a trustee while incarcerated. While commendable, the fact that he "has behaved well in jail does not mean that, in the absence of constant monitoring, he will cease to pose a danger to others". Government's Response [101] at 5.

CONCLUSION

For these reasons, Hinkle's motion [98] is denied.

SO ORDERED.


HONORABLE JEREMIAH J. MCCARTHY
United States Magistrate Judge

DATED: Buffalo, New York
April 5, 2024